

**MINUTES**  
**OF THE**  
**ENVIRONMENTAL PROTECTION COMMISSION**  
**MEETING**

**DECEMBER 3, 2002**

**INGRAM OFFICE BUILDING**  
**7900 HICKMAN ROAD**  
**CLIVE, IOWA**

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## MEETING MINUTES

### CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Murphy at 10:00 a.m. on Monday, December 3, 2002, in the Ingram Office Building, Clive, Iowa.

### MEMBERS PRESENT

Lisa Davis Cook  
Lori Glanzman  
Darrell Hanson  
Kathryn Murphy, Chair  
Jerry Peckumn  
Gary Priebe, Vice Chair  
Kelly Tobin

### MEMBERS ABSENT

Terrance Townsend  
Rita Venner, Secretary

### ADOPTION OF AGENDA

Kathryn Murphy said she would like to move the public comment on the agenda from 10:30 to the end Item 3 of the agenda.

<i>Motion was made by Lori Glanzman to approve the agenda as amended. Seconded by Gary Priebe. Motion carried unanimously.</i>
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### DIRECTOR'S REPORT

Director Jeffrey Vonk said the Commission was there to hear from the department and people on both sides of a proposed new hog confinement. The Commission will hear a lot of emotional testimony, and he cautioned them to ignore the emotion and concentrate on the facts of the case. It is the Commission's role to evaluate the application and the information that would be presented to them as to its accuracy and the potential for environmental impacts from this facility. He said in Iowa the debate on environmental impacts from large scale hog operations has been allowed to overshadow the water quality debate. This is not about water quality. According to a recent article, animal agriculture makes up only 15% of the sum total of all nutrients applied to fields through agricultural practices in this state. There are no laws, rules, or regulations for the other 85% of commercially applied nutrients. He said if we are really going to get to the debate on water quality in the State of Iowa, we have to concentrate on the larger picture of an overall nutrient budget, which the department is currently trying to compile for every watershed.

### DEMAND FOR HEARING - HUMBOLDT COUNTY D & S CATTLE, L.L.C

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

On October 16, 2002, the department issued a draft construction permit to D & S Cattle, L.L.C., indicating a preliminary decision to approve a new swine finishing confinement feeding operation near Gilmore City, Iowa. On November 4, 2002, the department received a demand for hearing from Humboldt County. Humboldt County and D & S Cattle, L.L.C. has requested the opportunity to make oral statements. Pertinent documents relating to the demand and the department's and/or D & S Cattle, L.L.C. response to it have been provided to the Commission.

The Commission is requested to review this matter and render a final decision by December 9, 2002, which is 35 days from the date the department received the Board's demand for hearing.

A copy of the documents received from Humboldt County and D & S Cattle, L.L.C. are available for review by contacting Carol Arpy on the 4<sup>th</sup> floor of the Wallace Building.

Wayne Gieselman said because of the comments that the Commission heard at their last meeting regarding the unique geology of this area, he asked Bob Libra from the Department of Natural Resources Geological Services Bureau to present some information on the area and to answer any questions the Commission may have.

#### **Hansen, Harlan**

Harlan Hanson, Chairman of the Humboldt County Board of Supervisors said he had four people with him that wished to address the Commission on this matter; Louie Falleson and Dianne Connors, would discuss the geological issues in Humboldt County, Jean Bunz, City Council member from Gilmore City would discuss the city's water quality issues, and Bill Mallory would discuss the legal issues involved in this case. He said Humboldt County was the first to enact ordinances in 1995, designed to address the issues that are still being discussed today. One of the ordinances was a concern for water quality. On July 29, D&S Cattle turned in their application for a building permit; public notice went out on August 1, and on August 19, the Board of Adjustment met. There were 21 concerns that were brought out at that meeting. On August 26 the Board of Supervisors voted to unanimously support the Board of Adjustment's decision to deny the permit. He said they also received a petition from the citizens of Humboldt County asking that the ag drainage wells and natural sinks in that area of the county be addressed. On October 16 the Department of Natural Resources issued its intent to permit for D&S Cattle and on October 28 the Board of Supervisor's unanimously voted to appeal the proposed permit to the EPC on the grounds of water quality issues. On November 4, the Gilmore City Council and Mayor passed a resolution asking the EPC to deny the proposed permit for D&S Cattle because of water quality concerns. He said Director Vonk made reference to water quality for the whole state and while he agrees with that concept, in the Southwest corner of Humboldt County there are an abundance of ag drainage wells and natural sinks. The Geological Survey Bureau of the Department of Natural Resources has said there is a possibility of contaminating the aquifer.

**Falleson, Louie and Connors Diane**

Louie Falleson said the geology of the area where this site is going to be located and the fields identified in the manure management plan are very unique to Humboldt County, Iowa, and the United States. The geology can be traced back to the Manson meteor, which struck north of Manson, on the Pocahontas Calhoun County line. It struck the earth so hard that it fractured the sub terrain rock and brought it to the surface. Avery and Weaver townships were the most affected. After that the area was glaciated several times, leveling it off, and removing much of the top soil leaving carst limestone very close to the surface. He showed a map of Humboldt County that had been published in the Des Moines Register in an article about building lagoons in leaky soils. He said they are aware that they will not be dealing with lagoons, but they do have leaky soils and there is an abundance of ag drainage wells, natural sinks, and tile lines. This is a heavily tiled area leading to ag drainage wells and even to natural sinks. He showed a picture of an ag drainage well showing the injection of surface water into the aquifer. He said the only difference between an ag drainage well and a natural sink is the ag drainage well is man made. Because of this they have to be very careful about they type of contaminants that are put in the area. While commercial fertilizer is and always will be spread in the area it has a guaranteed analysis and is consistent when applying it.

Jeff Vonk said there is no limit on commercial fertilizer so it can be spread as heavily as the applicator wants to put it on.

Louie Falleson said by law there is no limit however commercial fertilizer has nitrogen in it while hog manure has bacteria, nitrogen, ammonia, antibiotics, heavy metals, and phosphorus. In addition the nitrogen level in manure is generally lower than that of commercial fertilizer so that it has to be spread more heavily on the soil to get the same benefit.

Diane Connors distributed a map to the Commissioners that showed the locations of ag drainage wells, waterways, and sinkholes as they relate to the proposed facility and manure management fields. She said the circles on the map are the manure mange plans for the existing facilities, which covers a large area, with a lot of them overlapping. She said another major concern is the natural waterways indicated by the light blue lines on the map, as they create a big path that leads directly to the sinkholes. She pointed out the county's main tile line passed through one of the manure management plan areas directly to a natural sinkhole.

Jerry Peckumn asked if the county was doing anything about commercial fertilizer application such as providing training or education.

Louie Falleson said that has been pretty much left up to the land owners. They have the agronomist come out and check the soils and if there is an ag drainage well they have to have well head protection and surface intake closures for which equip funds were available, after which the landowner was required to follow a nutrient management plan and the ag drainage well is monitored for five years. He said most farmers, because of the cost of commercial fertilizer, will not put on more than he needs to. Hog manure, while a nutrient to plants, can be considered a waste too.

Darrell Hanson said whether or not this permit is approved has no legal impact on whether or not manure would be spread on those fields.

Kelly Tobin asked how many ag drainage wells have been closed in Humboldt County.

Harlan Hansen said he believes all ag drainage wells were required by law to have been closed by December 31, 2001.

Jerry Peckumn asked when they say the ag drainage well had to be closed, did they mean it had to be closed to surface intake or completely closed and no longer used.

Jeff Vonk said the wells still function for drainage purposes through subsurface tile but they are not open to the surface intake.

Louie Falleson showed pictures of a natural sink located along Highway 3 in the watershed of two townships. He said the sinkholes are open and carry huge amounts of water. He showed an aerial photo showing the watersheds that drain into a waterway leading directly to a natural sink. He said the manure management plans for this site are located in that watershed. He reviewed the photos distributed to the Commission showing intakes located in the southwest corner of sections 27 and 28, adjacent to one of the fields named in the manure management plan. Another set of pictures showed an open ag drainage well and surface intakes in the southwest corner of section 18 located in one of the fields named in the manure management plan and a ravine that flows to the river from that same field.

Jerry Peckumn asked if Mr. Falleson was suggesting that all tile intakes be closed.

Louie Falleson said that farmers had managed around them in previous years without any apparent problem. However when there are large amounts of animals confined in small spaces there is large amounts of animal waste that need to be disposed of, usually in liquid form, and he believe that is a threat of contamination through intakes. He said the Iowa Geological Survey Bureau wrote a letter to the department which says, "surface shallow groundwater aquifers and bedrock aquifers are at high risk of contamination. Agricultural drainage well intakes are located in two of the manure management plan fields that could allow manure to flow directly into the bedrock aquifers."

Diane Connors read from an 1898 Humboldt County geological report, which said, "The western and especially central townships exhibit a very different system in some of its features unique. The limestone, which underlies the region now in question, appears to be full of fissures and as a result we have subterranean drainage. Within the past few years the farmers, taking their queue from the natural state of affairs, have begun boring holes in the bottom of the marshes or lakes not having such outlets by nature. Once a well is sunk in some particular slew, other wet acres in the neighborhood are, by tiling, brought into connection so that sometimes a single well will drain a very large area of several hundred acres. The propriety of sending the discharge of unfiltered surface waters into the water pouches that must supply at the same time the wells and the springs of the county is perhaps a matter that will one day merit consideration at the hands of the sanitary engineer."



Louie Falleson quoted sections of page 23 of the Iowa Geology, book Number 24, published by the Department of Natural Resources, which says two of the most vulnerable geologic settings in Iowa are alluvial and shallow bedrock aquifers, which have little or no protection from surface contaminant sources. He said this describes the geology in this section of the county. The book states that another significant factor in evaluating a site involves the location, type, and depth of any nearby drinking water well that tap a specific aquifer. He pointed out that all of their wells are at the same depth as the ag wells and many of the natural sinks. He said it was his opinion that the DNR had failed to recognize or address the carst features of the area and the natural sinks open to surface water runoff. They do recognize potential contaminants entering ag wells by surface application of manure, and their solution is to inject the manure into the soil. One of the arguments the county has is that incorporation or injection of liquid manure over subsurface tile lines that lead to an ag drainage well or a natural sink offers no protection to the groundwater and may very well speed up the transfer of manure to the tile lines and then to the ag drainage well, resulting in groundwater contamination.

Diane Connor said that in a litigation report involving AJ Decoster from August 1997 showed that manure could infiltrate the tile systems and contaminate the water supply.

Louie Falleson said in a study conducted by the Centrailia College of Agricultural Technology it was found that while injection of manure may be an ideal way to minimize odor and losses of ammonia to the air, it appears that conventional systems for injecting manure contribute to tile water degradation more than simply broadcasting manure onto the soil surface. Humboldt County, Gilmore City, and opposing residents maintain that the construction of D&S Cattle hog factory site in Section 27 of Avery township and/or spreading in these areas will lead to ground water contamination in violation of state law, Iowa Code, and the Ground Water Protection Act.

Jerry Peckumn asked if there were problems with nitrates or bacteria in the existing wells in this area.

Louie Falleson said the nitrates go up with the rainfall which indicates that this is connected with the ag wells and surface water.

Kathryn Murphy said in the interest of allowing everyone to have a chance to speak, the Commission will need to limit each group to one hour.

### **Bunz, Jean**

Jean Bunz, a member of the Gilmore City Council read a statement from the City Council concerning D&S Cattle. "The Mayor and the City Council of Gilmore City have a great concern regarding the Goodell Hog Factory Farm proposed to be built near Gilmore City. As a governing body it is our responsibility to do all we can to ensure an environment for our citizens, which affords them a high quality of life. It is our feeling that allowing this factory farm to be built within a few miles of the city and the proposed manure spreading site a mile from town would be a great detriment to the high standards we've tried to maintain for our citizens. We are concerned with the affects this facility would have on our drinking water and our air. Though we

realize the importance of economic development in our community, our county, and our state, we also realize the importance of ensuring the development does not sacrifice our way of life. We strongly urge those with the power to deny permits needed for building this facility, to do so.” Ms. Bunz said the proposed hog factory is three miles east and one and a half miles north of Gilmore City and one of the manure management sites is less than one mile from their city well. Their well is approximately 170 feet deep and is very susceptible to runoff. The nitrate levels in the Gilmore City are checked daily, it is currently running between six and seven, with ten being the EPA limit.

Jerry Peckumn asked if those readings were before or after the water had been treated.

Jean Bunz said that it was after treatment. Their battle with nitrates goes back to 1993 when DNR served the city notice that their nitrates were too high and had to be fixed immediately. At that time they requested help to track down the source of the increase but received no reply. She said they assumed at that time that the DNR was only interested in regulation and did not want to be part of the solution. In 1993 the city added a \$235,000 nitrate filtering system, which was a huge commitment for their town of 600 people. The system works similar to a water softening system but instead of filtering minerals it filters nitrates. Like a water softener it uses salt so the more often it generates the more salt it uses. In the average year Gilmore City spends approximately \$5,000 on salt. If the nitrate levels raise above the EPA limit of ten the city is required to furnish bottled water to all residents under the age of one. There is now talk of expanding that law to include residents over the age of 55. She said sheer economics assures us that commercial fertilizer with a cost per acre will be applied at the recommended rate or lighter. Manure on the other hand needs to be applied until the tank is empty. Groundwater provides over 40% of the water supply for the United States but it provides 97% of all water consumed in rural America.

### **Mallory, Bill**

Bill Mallory, attorney with Brick Law Firm in Des Moines said he was there on the behalf of the Humboldt County Board of Supervisors to discuss the legal deficiencies inherent in the manure management plan submitted to the Department of Natural Resources by the applicant D&S Cattle. Iowa Law places a legal responsibility upon both the DNR and the EPC to prevent water pollution in this state. In an attempt to fulfill this obligation, Iowa Law requires that confinement feeding facilities submit, among other things, an approvable manure management plan in order to receive a construction permit. The intended purpose of the manure management plan is to ensure that the applicant has enough land to dispose of their manure. If there is a legal deficiency in the plan, neither the DNR nor the EPC can approve the permit. A review of the manure management plans submitted to the DNR shows that there are multiple code requirements that have not and can not be met by the applicant. The code requires that manure from an animal feeding operation shall be disposed of in a manner, which will not cause surface or groundwater pollution, and that confinement feeding operations not discharge manure directly into water of the state or into a tile line that discharges water directly into the water of the state. There can be no direct discharge into agricultural drainage wells, sink holes, or public owned lakes. He said based on the manure management plan submitted by the applicant these requirements have not and cannot be met. The volume of manure that will be generated by this facility is nearly 1.25 million gallons per year, which will need to be disposed of over the carst

features, ag drainage wells, and sink holes. The draft permit issued by the DNR acknowledges that ag drainage wells have been identified near the manure disposal fields, however documentation in the DNR files indicates that the surface intakes are in, not just near the fields where the applicant intends to dispose of the manure. He said as admitted by the Iowa Geological Survey Bureau, ag drainage wells pose a serious threat to groundwater quality, not only in Iowa but in Humboldt County specifically as they provide a direct route for the delivery of contaminant directly to the groundwater supply. In addition to the ag drainage wells in the fields proposed for disposal, field tile drains almost all of the manure manage fields proposed to be used by the applicant. Most of these proposed disposal sites also drain into the Des Moines River watershed. In Humboldt County the location and the manner of disposal proposed by the applicant cannot meet the requirements of Iowa Law regarding groundwater protection. Specifically the manure management plan submitted would allow the applicant to dispose of the manure in a manner that will cause surface and groundwater pollution in violation of Iowa Code 455.B201 and Iowa Administrative Code 567.65 (2). By allowing the applicant to dispose of the manure in the manner and at the location proposed, the confinement feeding operation will discharge manure directly into the water of the state and into tile lines that discharge directly into the waters of this state. Even the conclusion of the Iowa Geological Survey Bureau states that the disposal of manure in these locations as proposed will create a high risk of contamination. A review of that memorandum also confirms that disposal of manure in these locations is likely to be a direct discharge into the waters of the state. The DNR in the review of this application took a very limited view of its role in the approval process as well as in what constitutes discharge into the waters of the State of Iowa. The Department, in response to the Humboldt County demand for hearing talks about set back requirements that the applicant says he will meet, however this is not a set back issue; it is a groundwater protection issue. The DNR's limited definition was not intended by the legislature and it does nothing to protect from the groundwater contamination through sink holes and ag drainage wells in Iowa, it does not serve the public interest, does not protect the waters of Humboldt County or the waters of the state, and does not comply with Iowa Law. In its application, D&S Cattle asserts that it will apply manure to approximately three fields within sections 18, 28, and 32 of Avery Township in Humboldt County. He said he has learned from conversations with Harlan Hanson and Louie Falleson who were told that the land currently designated in the manure management plan will not be the land that the applicant will actually use to dispose of the manure. He said while he has no personal knowledge of this if the information is true the manure management plan is inherently deficient and does not actually represent where the manure will be applied. In addition the manure management plan states that they will use 150 acres in the northeast quarter of section 28 for land application of manure but according to the manure management plan for site 5046 in Humboldt County, 80 acres of that land have already been designated to receive manure from another operation. He said it is important to recognize that the DNR and the EPC have the ability to require more stringent minimum manure control and in this instance there is no question but that a great level of manure control is required to provide an adequate level of water pollution control for Humboldt County.

**McAfee, Eldon**

Eldon McAfee said he is representing D&S Cattle, who is a family operation that raises cattle and owns several hog operations in Humboldt County. He introduced Scott Goodell and Dennis Goodell.

**Goodell, Scott**

Scott Goodell said he and his brother were fifth generation of farmers from Humboldt County and the reason they chose this site is that it is located up the road from where his brother lives and the availability of land to apply the manure. The site will be located a mile and half from Dennis Goodell's home where he also runs a 4,000 head hog facility. The proposed site will house 4,050 head in three barns that will be tunnel ventilated. This means the fans are located at the end of the barns so that the air can be drawn across the animals in the summer to cool them. He said he has been told that the odor is less in tunnel ventilated barns than those that are naturally ventilated. He said he and his brother do most of their own manure application and out of the nine years of doing so have only had to surface apply the manure twice due to weather conditions. He said they feel that injection is the better method because they get the benefit of the nitrogen.

Jerry Peckumn asked if they apply the manure in the fall or the spring.

Scott Goodell said they try to apply it all in the fall but they have applied through injection in the spring.

Jerry Peckumn asked how they controlled the amount of manure applied per acre.

Scott Goodell said they figure out the total number of acres in the field and the number of gallons in the pit, they get a sample of the manure so that they know what it has in it, and then figure what the crop uptake will be for the following year. With that information they figure how many gallons per acre to apply, which tells them the speed what speed to go while applying. He said to them the manure is a fertilizer and they treat it as such; it costs them to get it out to the field.

Jerry Peckumn asked if they use any commercial fertilizer.

Scott Goodell said they have used some liquid nitrogen if they do not get enough on it in the fall.

Jerry Peckumn asked how the nitrogen availability in liquid manure compared to nitrogen availability in commercial fertilizer.

Scott Goodell said the first year the availability is 70%.

Kelly Tobin asked how long the manure sampling takes and where they get it done.

Scott Goodell said theirs is tested at the Eagle Grove Lab and it takes approximately two weeks to get it back.

Eldon McAfee said the Commission has heard a lot of discussion about the ag drainage wells and natural sink holes in Humboldt County and no one knows better than the Goodell's as they have farmed there for years. He said he disagrees with the attorney for Humboldt County because this is a matter of separation distances and a matter of what the law says. The separation

distances were put in place to provide some sort of protection for water quality. The 1997 ordinances of Humboldt County were struck down by the Iowa Supreme Court. The Iowa Supreme Court and the Iowa Legislature has said that the State will be the one to regulate water quality in this area. If manure is not put on this land, it will not be sitting idle, it will be raising crops, and commercial fertilizer will be used. He said he found the discussion about bacteria and heavy metals somewhat interesting because manure has been called an organic fertilizer for years. The fact that it is liquid only helps it to be injected which helps control the odor and preserve the nitrogen content for crop production. Injection is the preferred method of application for this type of land. He said there has also been some discussion about the southwest corner of Humboldt County but this proposed facility will be built in the central to north central portion of the county. He said if the Goodells were to surface apply their manure they would be required to stay 200 feet away from any known sink hole, ag drainage well, or surface inlet, however because they are going to inject, under state law they are not subject to the 200 foot separation distances. This is an area that has had livestock production for a number of years, it is just being done differently now. He said there will be a large amount of liquid manure produced by this facility, it will be stored in concrete pits that had to meet the minimum design standards. He said the ag drainage wells in question have permits from the Department of Natural Resources.

Jeff Vonk said that Mr. McAfee had suggested that the only option available to the Goodells with regard to the ag drainage wells or sink holes was to inject or stay 200 feet back if they were going to surface apply. However the voluntary option would be to seed down a fifty foot buffer around these areas and stay off it with all crop production activities. If they were willing to agree to that it could be written into the permit to hold them to it.

Scott Goodell said he would be willing to work with the landowner, if the landowner was willing to do it.

Eldon McAfee said the only thing that the attorney for Humboldt County presented was speculation and conjecture with regard to Iowa Code 455(b). To suggest that this was a release as defined in the Iowa Code is a stretch of the law. He said John Korslund had some interesting information about antibiotics and bacteria and there are several other people who would like to speak during the public participation time, however since the applicant still had some allotted time he asked if the Chairperson would like to hear them at this time.

Kathryn Murphy said the applicant could have anyone speak that they wished during their allotted time.

### **Korslund, John**

John Korslund said he was a veterinarian who resides and raises pigs in Humboldt County and served as a representative on the Matrix Advisory Committee over the summer. He said while it is not good to have bacteria of any kind in groundwater, bacteria are a fact of life for any living creature. He said they spent many hours in the matrix committee listening to and discussing potential human health threats from livestock production and its by-products, it is an area that continues to be studied and will require a lot more research. At this point most researchers do

not see imminent danger of human illness through groundwater contamination. He said there are several points to keep in mind when discussing the pathogens in manure to groundwater. First e coli is a generic term for a type of bacteria most of which are not human pathogens. The type of e coli that is a risk to children and immune compromised adults is found mainly in cattle and can be transmitted through hamburger that has been improperly prepared. This strain has not been found to be naturally present in pigs. In addition, sunlight, heat, freezing-thawing, and time are all good killing agents for bacteria and unless there is a great amount of rainfall to carry microbes into drainage channels, they will remain where they are deposited.

Jerry Peckumn asked if the bacteria would be capable of moving through the soil into the tile lines.

John Korslund said that he believed that they could if there was enough rainfall. If microbes happen to make it into an aquifer, they face a huge amount of dilution and an anaerobic, nutrient-poor environment in which they must attempt to survive. He said he is not trying to defend ever dumping bacteria into aquifers; however nature provides some protection which we need to recognize. The bigger question that the Commission must face is whether or not the procedures and rules put into place by the DNR are adequate to protect our state's groundwater within the statute as it is set forth by the Legislature.

Lisa Davis Cook asked who he had represented on the matrix committee.

John Korslund said he represented the Pork Producers, the Cattlemen and the dairy group.

### **Carney, Sam**

Sam Carney, a member of the Board of Directors for the Iowa Pork Producers Association and a pork producer from Guthrie County said on their farm they do their best to comply with all regulations, which has become more difficult over the past few years. Over the past eight years the State of Iowa has passed a total of six livestock environmental laws, thirteen adopted by DNR with three more rules currently being proposed by the Department. This means that since 1995 producers have over 168 pages in legislation to follow and at least 43 more pages of DNR administrative rules. Concerns raised by Humboldt County are issues of potential and remote pollution events yet if an accidental pollution event happens there will be violations of state laws and environmental rules. He said some people might ask the Commission to ignore the legislative requirements, ignore the DNR permitting staff recommendation, and deny the construction permit. One of the county's main issues appears to be with injection of manure into the soil yet this is the same technology for which DNR proposes to give bonus points for on the Master Matrix. Most farmers that he knows want to understand and follow the rules prior to investing in the farms. The Commission now has the opportunity to establish confidence and consistency in the permitting process. When all of the legal requirements have been satisfied and the DNR staff has approved a permit it seems unusual to disregard the requirements of the law and the expertise of the agency staff.

**Tellier, Kevin**

Kevin Tellier said he was there on the behalf of the Humboldt County Farm Bureau. He said most of the farms in Humboldt County are in row crop production and have fertilizer applied to the land annually. Farmers usually apply synthetic fertilizer made outside of the State of Iowa, however when applied properly manure contributes to soil fertility and tilth, provides carbon and other elements that affect soil humus content, biological activity, and soil structure. Manure application is regulated by the state while commercial nitrogen is not, although both have certified applicator programs. The application of manure is more controlled and thus provides greater safeguards for the protection of groundwater quality than commercial fertilizer. He said in its appeal, the county makes several statements about the excessive nitrogen level at Gilmore City during early September; however farmers were not applying manure or commercial fertilizer and had not been since June of this year. Other factors contributed to excessive nitrogen levels such as heavy August rains, decaying plant life, and similar natural causes. The other major basis for the appeal is the alleged presence of natural sink holes near the manure application fields. An independent analysis located only one sinkhole, for which any concerns can be addressed by the application of appropriate best management practices, such as incorporation measures, buffers, and setback distances. This same analysis also found that the soils in the area do not present the problems noted in the County's appeal and that other geological issues, such as tile lines and the presence of the ag drainage well in section 32 will be addressed through proper implementation of the manure management plan. He asked the Commission to avoid setting a precedent that manure should not be applied in their county because of the presence of ag drainage wells. Ground water protection concerns from ag drainage wells has already been addressed in state law through separation distances and the conditions associated with ag drainage well permits. He said it has been stated that people who are selling manure are out to sell as much as the can, however he is limited as to how much manure he can sell to a neighbor, they run the same formulation that he would for his manure management plan and he can only sell the amount that can be used by that field. On the other hand a local coop can sell as much commercial fertilizer as they wish. He said as for the stability of manure, two years ago in the fall he applied 4000 gallons of manure to his field at the same time that 170 pounds of nitrate was applied to his neighbor's field. The following spring after excessive rainfall in north central Iowa, he performed a nitrate test on his land and learned that he did not need any additional nitrogen but his neighbor needed an additional 120 pounds.

**Adams, Doug**

Doug Adams said he was there on behalf of the Humboldt County Farm Bureau who asked an independent consultant to evaluate the complaints raised in the appeal. They asked Barker Lemar, a registered professional engineer, to perform a site survey and an independent analysis, to determine if there were unique factors with this permit location compared to others in Humboldt County. The main reason stated in this appeal is that the Humboldt County area has the presence of agricultural drainage wells, which have been present in this area for more than 100 years. Landowners were required to register the wells by 1988 and permits have been issued to allow continued operation. The surface intakes that once drained to ag drainage wells were required to be eliminated by the end of 2001. Permits for the ag drainage wells are subject to conditions set by the Department of Natural Resources, including keeping the well and drainage systems in good repair and the removal of any connections to septic or other waste treatment

systems. These requirements may also include the installation of runoff control measure for feedlots within the drainage area. In addition the application of nitrogen in any form on lands within the wells drainage area cannot exceed the levels necessary to obtain optimum yields for the crop being grown. The two ag drainage wells referred to in the appeal have been permitted and the permits are valid until 2009 and 2010. According to the independent site analysis performed by Barker Lemar Engineering they have a metal lids, four inches of concrete and a bermed grass area around them to stop surface flow into the well. He said the less than 5% slopes and low to moderate permeability of the soils make it less likely that excessive runoff will occur. The farmers in Humboldt County are addressing the water quality issues associated with ag drainage wells and the proper application of manure does not complicate or erode these efforts He asked the Commission to not base the denial of a construction permit on the presence of ag drainage wells because of the possible implications to other farmers in the state who apply fertilizer in areas draining to ag drainage wells.

Kelly Tobin asked if Mr. Adams believed that the pictures that Humboldt County gave them were wrong.

Doug Adams said he is not sure where the ag drainage well pictures came from but the consultant they hired had given them pictures of wells that had been properly closed.

Eldon McAfee said the buildings that the Goodell's are proposing to build will have under slat pits with at least a year's storage capacity. Therefore manure application is always slated for the fall. He said Humboldt County had brought up some concern about whether or not the applicants had the authority to apply manure to the designated land and he would like to point out that in the manure management plan, which is required by Iowa Law, there are signed easements by the landowner to allow the applicant to apply manure as long as those buildings are there and being operated. He said the Goodell's have complied with Iowa law and will continue to do so throughout their operation. However if for any reason they do not comply with Iowa law, the law provides a mechanism to deal with that.

Darrell Hanson asked the applicants what steps they took to make sure they are applying the manure at the appropriate rate.

Dennis Goodell said they know how wide they are spreading and the distance of the field and by the end of the field they know how many gallons have been applied. Every month they measure the amount of product in the pit and after applying the manure they measure the pit again.

Wayne Gieselman said he has asked Bob Libra, a hydro geologist from the Iowa Geological Survey Bureau to discuss the geology of this portion of Humboldt County.

Bob Libra said in Humboldt County there is a variable thickness of clay glacial tills that overlie limestone bedrock aquifers. Over the last couple of decades studies have found that when there is sufficient thickness of glacial material overlying the aquifer the groundwater is protected from anything that is happening on the land's surface. When there is less than 50 feet of cover you will more commonly see some types of contaminants in the water and when there is less than 25 feet of cover, surface activities can cause the contaminants to reach the aquifer. When there are



limestone aquifers and a thin cover of glacial materials, sink holes can form. He said when looking at a site for a feeding operation, landfill, or a location involving underground storage tanks they will describe areas that have less than fifty feet of glacial materials on top of the aquifer as being susceptible to groundwater contamination. If there is less than 25 feet of glacial material above the aquifer it would be described as highly susceptible to contamination. Sink holes, sand and gravel aquifers along rivers, and agricultural drainage wells would also be described as being highly susceptible. These designations are not specific to applying manure it is simply stating that the natural setting may allow contaminants to reach the underlying aquifer. On the property being discussed for this facility and manure management plan there are areas with quite shallow rock, areas with sinkholes, and areas with agricultural drainage wells. He said sinkholes are formed by water percolating through cracks in the limestone dissolving the limestone making the cracks larger and when the glacial cover is thin it sloughs down into the cracks. It takes 10's of thousands of years to create a hole in the limestone but when the soil begins to slough into the hole it can happen very quickly. Sinkholes are ephemeral; some will be around for a long time, while some will fill in with sediment. An agricultural drainage well can be thought of as a man made sink holes, except that they are not as wide and they're drilled and cased like a well. Typically they have drainage tiles connected to them and others are located so that direct surface runoff is channeled to them. There is typically a cistern on top and a casing that goes down through the glacial material. In essence they are a delivery mechanism that takes shallow water from approximately two to three feet below the field surface and funnels it into the aquifer. If you go to a place where rock is shallow, there are a lot of sink holes, and you add agricultural drainage wells you may not be able to figure out what is causing the contamination. In areas where aquifer is protected by a thick glacial cover and ag drainage wells are present you will typically see greater contamination in the water than those protected areas that do not have the wells.

Jerry Peckumn asked what type of contaminates were being found.

Bob Libra said they have found detectible concentrations of nitrate and low levels of some of the commonly used herbicides.

Jerry Peckumn asked if this was being found in private drinking water wells.

Bob Libra said drinking water wells that are in the same limestone that the drainage wells are draining into will show this contamination.

Kelly Tobin asked about the dilution effect.

Bob Libra said you will see the impact within a mile or two of the drainage wells but because of the dilution you do not tend to see the contamination further away than that. He said their review of the permit showed that some of the manure fields were in areas that were quite susceptible to contamination. In another study they are conducting called Source Water Protection Project they are trying to identify the zones around all public water supplies in the state and the areas that contribute water to them in two, five, and ten year periods of time. They have not completed any of these studies in Humboldt County as of yet but they have completed one for Gilmore City, which straddles the line of Humboldt and Pocahontas Counties. The ten year line goes through

section 31 and the nearest manure field would be in section 32. He said historically the use of the land in the ten year circle has been 90% row crop and receives some type of nutrient either in the form of manure or commercial fertilizer. This is where they believe Gilmore City's water problem is coming from.

Jerry Peckumn asked if they had looked at Gilmore City's handling of their own waste.

Bob Libra said he believed their sewage ponds are on the edge of their ten year zone.

Jerry Peckumn asked if it could be a source of nitrates.

Bob Libra answered that it could be but he did not believe it was a huge one.

Jerry Peckumn asked if the water in the aquifer could move a long distance.

Bob Libra said that it could move hundreds of miles but that it moved very slowly unless there is a strong driving force to move it and there are karst conditions. In this area the topography is very smooth so there is no driving force to move the water.

Kelly Tobin asked if nature provided any filtering system once the water reached the aquifer.

Bob Libra said once the water reached the fractured rock there is no filtering or absorption.

Darrell Hanson asked if their finding of the area being highly susceptible to ground water contamination was a conclusion as to whether or not manure application should be allowed on the land.

Bob Libra said it was simply a description of the natural setting. If the manure is injected at a rate that it will not blast it through the soil in raw form to a drainage tile and it is not running off there is not a lot of difference between applying manure and applying fertilizer.

Jerry Peckumn asked if there was any concern about microbes or antibiotics.

Bob Libra said there could be if the manure was liquid, but not too diluted and it was moving on its own pretty fast.

Jerry Peckumn asked if the soil would filter them out.

Bob Libra said as long as there is no runoff to a sink hole and the applicator does not inject it too fast there is enough soil that the bacterial transport through it would not be a large concern.

Reza Khosravi said in the Adair County Appeal of the Gary Weiss facility, Autumn Dean questioned the data that the Department used when reviewing permits. He said the Department uses data from the 1971 Midwest Plan, which states that water-use for pigs, is approximately 1 to 1 ½ gallons of water per day for every one hundred pounds of live weight for pigs. Because of Ms. Dean's comments his staff performed a literature review and contacted different universities.

Dr. Palmer Holden from Iowa State University referred him to the National Research Council's 1998 book, called "Nutrient Requirements of Swine." In that book it states on page 192, that a pig weighing 150 pounds will use approximately 1.9 gallons of water per day, which is equivalent to the data being used today. Additional sources supported the same finding. He introduced Dr. Sara Smith, who performed the review of the D&S Cattle permit application.

Dr. Sara Smith said the Department received the application for a permit to construct a new swine confinement facility. The facility was for 4,050 head, which fell below the threshold requirement where they would have had to hire a professional engineer. They were required to meet the Department's concrete standards and apply with all applicable separation distances to residences, churches, businesses, schools, public use areas, water courses, designated areas, railways, etc. They were also required to pay associated fees, have an approved manure management plan, and to receive a minimum of one hundred points on the interim matrix. The site is located 2 ½ miles north of Gilmore City and 1 ½ miles north of Highway 3. in section 27 of Avery Township. When completed each of the three confinement buildings will be 225 feet long and 51 wide with eight feet deep concrete pits. Each building will house 1,350 head of finishers for a total animal capacity of 4,050 animals or 1,620 animal units. The issues that Humboldt County brought forward with this demand for hearing included their concerns about water quality because of the presence of agricultural drainage wells and natural sink holes near the proposed site of the facility and in particular in the proposed manure application fields.. They also indicate that there will be no warranty that the Department recommendations will be followed. During the review of the permit the Department verified that the minimum concrete standards, which are established in the State regulations, have been met. The Department found that all of the applicable separation distances have been met. A site survey was conducted by the Department field office in the presence of two Humboldt County representatives. The manure management plan was reviewed by the DNR Iowa Geological Survey Bureau and was reviewed and approved by one of the Department's environmental specialists.

Jerry Peckumn asked what a tile drain certification was.

Dr. Smith said the applicant has to inspect for tiles and if any tiles are encountered during construction they have to be rerouted to ensure that the construction will not impede drainage.

She said that designated areas include natural sink holes and agricultural drainage wells. The Department did not identify any designated areas within 500 feet of the proposed facility. The closest proposed ag drainage wells to the proposed site were located approximately 1 ½ miles away. One mile is equal to 5,280 feet. The manure management plan submitted by D&S Cattle proposes to inject all of the manure that will be produced at this facility in sections 18, 28, and 32 of Avery Township. The Department identified the presence of ag drainage wells near or in some of the manure application fields, however because the applicant proposes to inject the manure separation distance of 200 feet for land application does not apply. D&S Cattle are required to keep an updated manure management plan at the facility.

Jerry Peckumn asked how the ag drainage wells were identified.

Dr. Sara Smith said they use the GIS system.

Jerry Peckumn asked if the department would know about a well if was not registered.

Dr. Smith answered that they would not but all applicable separation distances would still need to be met.

Jerry Peckumn asked if the manure management plan gave them the option to surface apply.

Wayne Gieselman said the law does not stipulate that the producer has to inject. If his manure management plan states he is going inject that is what the department would expect, however the law also states that a producer can change the manure management at any time.

Dr. Sara Smith said in conclusion the Geological Survey Bureau found that the area had shallow aquifers that were at a high risk for contamination and they cautioned that care should be taken during manure application; however they did not find a basis to deny the permit. The permit draft issued by the Department contained the recommendations that the applicant should avoid land application of the manure right before or after a rain, and when the slopes were wet, saturated, frozen, or lacking cover. The Department also strongly recommended that the applicant perform manure analysis so that the application rates can be adjusted accordingly. The law prohibits any direct discharge of manure to an ag drainage well; sink hole, or a designated area. She said as soon as the department receives a manure management plan it is entered into a data base, through GIS they are able to see whether or not land designated for manure application has been designated for use by another facility. Because D&S Cattle has met the legal criteria and all applicable rules in place at this time the Department issued a draft permit on October 16.

Darrell Hanson said the third reason for appealing this permit was because the department is not able to guarantee that the applicant will comply with the behavioral aspects of permit. He asked if it was unusual to put recommendations in a permit that we cannot guarantee will be followed.

Wayne Gieselman said the Department will often put recommended practices for the land application of manure in the permit. They are not requirements of the law and therefore the Department cannot guarantee that they will be followed.

Kathryn Murphy asked if there would be any legal recourse if the applicant failed to follow the recommended practices.

Wayne Gieselman said that if the Department could show that there had been a direct injection of manure into an ag drainage well there would be legal recourse.

Jeff Vonk said the Department would not fine someone for not following a recommendation that is not enforceable.

Kelly Tobin said they had been shown pictures of an ag drainage well that had not been covered or bermed and then they were told by someone else that they had all been taken care of.

Louie Falleson said the picture of the ag drainage well in Section 18 of Avery Township had been taken seven days ago.

Jeff Vonk asked if this was one of the ag drainage wells that the applicant referenced in their permit.

Louie Falleson said the Geological Survey Bureau referenced it in their review so he assumes that it has been permitted. There are surface intakes draining to it, it has not been bermed, and it does not have a locking cover. In addition the ag drainage well in Section 32 also has surface intakes going to it that were also mentioned by the Geological Survey Bureau.

Jerry Peckumn said his main concern is whether or not this is a legal ag drainage well.

Jeff Vonk said that the Department is not prepared to answer that question at this time. They have a permit that seems to reference that drainage well but there is no way to know if there is another near it. He said the only thing that can be done is to have someone from the field office go to the site and inspect the well.

Lori Glanzman asked how many wells the City of Gilmore had.

Jean Bunz answered that they have one drinking water well that is 170 feet deep and located east of town, less than a mile from the manure application site and one well that is not fit for human consumption that is on standby in case of a fire.

Lori Glanzman asked if they had a city sewer system and if they allowed septic systems.

Jean Bunz said they do have a sewer system with a lagoon that is located approximately one half mile west of town and that they did not allow septic systems in town.

Darrell Hanson asked if the existence of an ag drainage wells disqualified someone from applying manure on a field.

Wayne Gieselman said it would not.

Jerry Peckumn said his concern is whether or not these wells meet current specifications.

Robin Pruisner said the ag drainage wells were permitted on the basis that the landowner would do whatever was required to bring it into compliance with current standards. The Department did not go out to verify that the work had been done, however if they received a complaint they would go out and investigate it.

Jerry Peckumn asked what weight should be placed on the fact that the county claims that these ag drainage wells are not in compliance.

Jeff Vonk said he the question of the ag drainage wells being in compliance is a separate issue and is not relevant to this discussion. The law gives specific guidance as to how manure is to be

applied to land that has ag drainage wells. They have a manure management plan from the applicant certifying that they will inject the manure, which complies with the law. The Department has the responsibility, now that they have been shown that there is a well that may not be in compliance, to go to the field and investigate it.

## **PUBLIC PARTICIPATION**

Kathryn Murphy said that speakers would be limited to two minutes per person.

### **Benz, Melvin**

Melvin Benz said he is a farmer that has lived on his property for 40 years. The proposed site and one of the manure management sites are two miles from their home. One of the other management sites is ½ mile north and the other is 1 ½ miles east. The water that comes from the northern manure management site goes by six ag drainage wells before reaching his ag drainage well. The tile that runs on his property is only 2 to 3 foot deep. The water then goes south by five more ag drainage wells, and ends up in a natural sink down by Highway 30. He distributed a copy of a permit for his own ag drainage well.

### **Benz, Cory**

Cory Benz distributed some pictures of quarries from the area, and asked the Commissioners to notice that the limestone is anywhere from 2 to 10 foot deep in this area. He said he has spoke to people from Martin Marietta and was told that the further south you go the deeper the limestone is. He said he is really worried about the water quality for his area.

### **Cirks, Patricia**

Patricia Cirks said at the beginning of this meeting they were asked to leave emotion out of it but this is a very emotional issue for everyone because these facts are their lives. The hydro geologist from the Department of Natural Resources Geological Survey Bureau has said that he believes that the contamination of the Gilmore City is coming from row crop. There is already a problem of nitrates seeping through into the ag drainage wells in the area. Now they are told that the sink holes and unregistered ag drainage wells are not mapped. She asked how the Department can guarantee that there would be no ground water contamination.

### **Benz, Linda**

Linda Benz said she was not there as a radical activist against the hog farmers, she was there as a resident of a rural community that in the last few months have had fear put in their hearts. Since this has begun they have learned a lot about factory hog confinements and for every good thing they have heard; they have had heard the same thing turned around to be bad. They were told that it helped the economy, but they do not use the local vets, mills, labor, or contractors. She said the laws are not protecting them, they push the limits to disaster, spills go unreported, and the laws are not enforced. She said a local postal employee drove through manure on the road

and complained about the smell in her car but did not report the spill, and a neighbor who lives by a group of confinements told her his water turns black when it is left in a bucket for two days. She said she does not understand why the Department of Natural Resources, an organization that is supposed to protect the natural resources, would ignore a recommendation of their own Geological Survey Bureau. She said the issue before them today was not whether or not hog confinements should be allowed to be built; it is whether or not this one should be allowed to be built in Avery Township. The people wanting to build this facility has in the neighborhood of 30 or more buildings so denying this permit would not be detrimental to their income. She asked that the Commission consider the neighbors that will be exposed to the nuisance this facility will create.

**Davis, Lois**

Lois Davis said she lives approximately 1 mile south of where the proposed facility will apply their manure. She, her husband, and her son own and operate a family dairy farm and they are very concerned about their water supply. Their well is only 50 feet deep and they have very good water that is tested in April and May of each year. Their milk samples are tested each day and they have State and Federal inspectors that can come anytime throughout the year. If their water becomes contaminated they will be out of business.

**Connor, Diane**

Diane Connor said the proposed site and manure management plan are in the middle of their homes. They are very concerned about their water and the Environmental Protection Commission needed to look out for their welfare. Their geological situation is very precarious. She asked the Commission to rule on the side of caution because when the water is gone, where do they go.

**Tool, Don**

Don Tool said they spent over \$300,000 to get their water in Gilmore City cleaned up and he wonders how much more they will have to spend if the manure is allowed to be applied that close to their city water.

**Brown, Martin**

Martin Brown said he used to work at a quarry in Bradgate that is two miles north of this proposed site. He used to fill his canteen 125 foot down and then one Friday night the fuel man spilled approximately 100 gallons of diesel fuel and the next morning the spring was running diesel fuel so this stuff will sink through the ground. In addition while the quarry was being operated all of the wells ran dry which shows that all of the water systems are connected.

**Tool, Linda**

Linda Tool said she has a daughter who will live directly across from one of the sites where the manure will be spread. Another factor that concerns her is that the applicant proposes a plan as

to where and how they will spread the manure and yet they are able to change that plan when ever they wish. There do not seem to be any rules for them to follow.

**Pisel, Jolene**

Jolene Pisel said she lives in the neighborhood of the propose site and her concern is about the ag drainage well that has not been properly taken care of. She asked if they did not properly take care of their drainage well in the time they had to do so, why the public should believe that they will do what they are supposed to do with their manure management plan. She has driven through their manure on her way to work; there are injunctions against them at this time for spreading to close to intakes; and they have built hog confinements without permits. She asked who is going to monitor the safety of her daughter for the future and who will monitor their family farm. She said her husband has the soil tested on her farm and she is offended that all of the farmers are lumped together in this meeting because they do not overspread chemicals. She is also offended that the Farm Bureau was there speaking for all of its members of which she has been in the past. She asked if the Commission and the Department are not monitoring farmers who will not monitor themselves, who is.

**Nielsen, Nancy**

Nancy Nielsen said she lives ½ mile north of the proposed site and their first concern, being that close, is the affect on their daily lives. Her family is very involved in outdoor activities and she cannot imagine what their quality of life will be if there are 4,000 hogs and 14 months worth of manure ½ mile south of her home. Another concern is clean water. She believes that the public has been misled into believing that the DNR is working to protect their water quality. They appear to be a reactive agency, reporting contaminations and violations, instead of preventing them. When reviewing the permit request the DNR approved this site and ignored the warning of the Geological Survey Bureau. She asked if the DNR is understaffed and unable to handle their current work load should additional sites be approved knowing full well that the operators can do whatever they want after they have been permitted because the DNR does not have the time or manpower to enforce the current laws. She told the Environmental Protection Commission that it was their job to provide oversight to the decisions the DNR makes. She said another concern is the past behavior of Gary Naeve and the Goodells, because it is a good indicator of future behavior. There are numerous issues and complaints dealing with a site being built without a permit and a recent spill.

**Nielsen, Paul**

Paul Nielsen said he is a third generation farmer who has lived in Avery Township all of his life. He said he enjoys many outdoor activities and he is very concerned about the affect his hog confinement will have on his family. He said they were there first and asked why they should have to suffer for the rest of their life because of someone else's greed for more money. Once the damage has been done to the water it is too late. He said if this confinement is built his children will not want to live there or take over the farm.



**Heathcote, Susan**

Susan Heathcote, Research Director for the Iowa Environmental Council said the council's work that began in 1997 was to get resources to help solve a problem that was created in Wright County, Iowa, where large confinement livestock facilities were located close to ag drainage wells. At that time there were many questions as to how the DNR had approved the permits for these sites knowing the vulnerability to the ground water and the importance of that resource to the community. It happened despite the fact that the local people had brought this matter to the attention of the Department of Natural Resources over and over again. In Wright County several ag drainage wells were required to be closed because they were located too close to livestock facilities. Pocahontas County and Floyd County also had to close a lot of ag drainage wells.

**Meier, Wendy**

Wendy Meier said she lives ½ mile east of the proposed site and she is concerned about the water and the air and her family's health.

**Cyndi Anderson**

Cyndi Anderson said she worked at a hog farm for nine months and knows that the ventilation is not always right, there are rats and flies, and pigs are disposed of just outside the buildings. The thought of 1.2 million gallons of hog manure ½ a mile from her daughter's home is frightening.

**Benjamin, Dennis**

Dennis Benjamin said he has lived in section 28, located just west of the proposed site for 65 years. He is a member of the Farm Bureau and the Iowa Citizens for Community Improvement. He said he has watched the drainage for many years and told the Commission the farm quarter section where the proposed site is going is undermined with tile that goes directly to the Des Moines River. When they dig the holes for the pits he believes that they will be digging up tile. To the south the large county main runs into a big sink well and if it overflows the remainder goes to the Des Moines River. He said he hopes the Commissioners understand that there is a problem.

**Benjamin, Wanda**

Wanda Benjamin said she is concerned about their water, the flies, and the smell. This permit may be upholding the law, but it is not upholding the common good of the community. Just because it is lawful, does not make it beneficial.

**Lee, Romaine**

Romaine Lee said he has been the Humboldt County Supervisor for eight years. He said he was not there to endorse Iowa CCI, Farm Bureau, nor any of the livestock producers, he said he was there to represent the 10,381 people in Humboldt County. He said the Master Matrix that was developed by a committee that had been appointed by the Governor deals with three issues, air

purity, water purity, and community. Up until this portion of the meeting he had heard very little about community. The worst thing that can be experienced is the contamination of the community. He said he is deeply saddened by what goes on between neighbors and he prays that the Commission be granted wisdom beyond their own as they make their decision.

**Bunz, Jean**

Jean Bunz said if the Goodell's were truly good land stewards they would not be there because they would never consider putting a confinement facility in that section of the county. She said the Commission's job was to protect their environment and she does not see how they could think 4000 head of hogs in that area with its geological makeup could ever be allowed.

**Winken, Deanne**

Deanne Winken said the decision that the Commission makes will not only affect her generation but her son's as well. Despite the laws protecting the groundwater, there have been numerous accidents involving the storage or the spreading of manure even after all the legal requirements had been met. The bottom line of the Clean Water Protection Act is if there is a conflict between some code sections the section that protects the groundwater should prevail. If an accident happens the damage to the water may be irreparable. Common sense, good citizenship, or careful stewardship of the air, land, and water cannot be legislated, but the Commission has the privilege and responsibility to protect the water and send a message that says very clearly that any threat to our natural resources will not be allowed or tolerated.

**Joeliffe, Tom**

Tom Joeliffe said he drove a bus in Humboldt for three years and part of his route went past the Goodell's property. The smell from their property got into the seats and could not be cleaned up. He said his grandchildren plan to move out of Iowa after graduation because of the smell.

**Falleson, Louie**

Louie Falleson sent a copy of a study involving injection of manure over tiles lines around for the Commissioners to look at. He asked Jeff Vonk if an applicant designates a particular field in his manure management plan did he have to spread manure in that field or could be changed before the permit is approved.

Jeff Vonk said the Department assumes that the locations submitted with the permit are where they intend to spread the manure.

Louie Falleson said Gary Naeve, the owner of the property designated in the manure management plan, has said to several people that he does not plan to use the property. He said he felt Susan Heathcote should have an opportunity to finish her presentation.

**Hanson, Harlan**

Harlan Hanson said if the Goodell's had proposed to build their facility in another portion of the county they would not be appealing the permit. They are proposing to building in an environmentally sensitive area and that has to be taken into consideration when making this decision.

Eldon McAfee said it appears that much of the concern is with one ag drainage well in one of the three fields. He said this ag drainage well will be a concern whether this permit is denied or approved and if there is a question with compliance it should be dealt with separately. Manure will not be applied from this facility until, at the very earliest, next fall. That gives the Department ample time to deal with this issue before the manure is applied.

Darrell Hanson asked Bob Libra if their office recommended against the issuance of this permit.

Bob Libra said they did not make a recommendation of any kind; they simply described the geology of the area and stated what the susceptibility to contamination was.

Lisa Davis Cook asked if they stood behind the report they issued.

Bob Libra said they did.

Kelly Tobin said he sees this facility as a high risk with there being only 25 foot of cover, sink holes, and leakage so it would be hard for him to say that he will vote for it.

Jerry Peckumn said he is concerned about the ag drainage well being certified to meet the current standards.

Wayne Gieselman asked if Susan Heathcote would be allowed to address Commissioner Peckumn's concern.

Susan Heathcote said the permits were required prior to the deadline for the work to be done. In the permit it says the landowner is required to do the work prior to December 31, 2001. The Department did not have the staff to go out and inspect each of the ag drainage wells after the deadline to ensure that they had been brought into compliance.

Gary Priebe said the ag drainage well does not bother him because he is certain that Director Vonk will have it inspected as soon as possible and if it is not in compliance it is something that can be remedied in a matter of a few hours. The county has alluded to the fact that there is tile under the ground, but in Northern Iowa the majority of the fields have tile running through it. If there is a sink hole it may need to be bermed up. Their job is not to write the law; it is to uphold the law. The applicant has met the law. He said he has empathy for the residents but looking at the map supplied by the county there are 20 some other sites and the main line of them are built where the soil is the shallowest.

*Motion was made by Gary Priebe to affirm the permit to D&S Cattle. Seconded by Lori Glanzman.*

Darrell Hanson said if he had his way this issue would be settled when the County Board of Supervisors had decided there is a portion of their county that is appropriate for large scale livestock confinements and there is a portion that is not. Unfortunately this is not the system that Iowa has. It is the Commission's role to administer State Law. He said there seems to be an assumption that if there is no manure there will not be other chemicals applied on this land. Comment was made earlier in the day that commercial fertilizer is not over applied because of the expense but according to a study conducted by Iowa State University, ninety percent of landowners were applying fertilizer beyond the point where it made them money. In a few cases they applied them to the point where it depressed their yields. They all thought they were doing the right thing because they following the advice of the person selling them the fertilizer. He said the Iowa Environmental Council did a very good job in directing attention onto ag drainage wells. The Legislature responded to this with a law that states you can apply manure up to so many feet of an ag drainage well, closer if you inject. This is the law and the rule that the Commission has approved. He said another apparently conflicting law has been brought to the Commissions attention and a copy was handed out with the following underlined, "Manure from an animal feeding operation should be disposed of in a manner that will not cause surface water or ground water pollution." The county implied that this may supersede the set back requirement for ag drainage wells. However the next sentence of that statute says, "Disposal in accordance with State law including this chapter, rules adopted pursuant to the provisions of State law including this chapter, guidelines adopted pursuant to this chapter and section 45(b)... shall be deemed as compliance with this requirement."

He said in the last permit that was denied by the Commission there were some legitimate issues about whether the staff had ignored some things that were reasons to deny the permit. In this particular case, while there are some compelling reasons as to why this facility should not be built there, the staff followed the procedure in issuing the permit.

Lisa Davis Cook said she if the ag drainage well is not in compliance and manure is going to be applied around it, from what she has seen at this meeting she believes that it will cause ground and surface water pollution and that concerns her a great deal so she will not vote to uphold the permit.

Jerry Peckumn said he agrees with Darrell in that a lot of the nitrate problem that Gilmore City is experiencing is most likely due to commercial fertilizers. All farmers, including him, need to understand what they are doing and take responsibility when they use too much fertilizer. The manure management plan is obviously a step forward to what he does when he buys commercial fertilizer. He is very concerned however that there is a manure management plan that would apply manure to a farm that has an ag drainage well that does not meeting the specifications of its permit. Due to the potential pollution from ag drainage wells it would be very difficult for him to vote to issue this permit because he believes that ag drainage wells should be in compliance before the manure management plan can meet the specifications.

Gary Priebe said the applicant has stated that there will be no manure applied to these fields until next fall so there is no reason why that ag drainage well cannot be addressed.

Jerry Peckumn said while that is true he wonders why it is not addressed to date.

Kathryn Murphy said at this point the Commission does not know that there is an ag drainage well that is out of compliance on these fields.

Jerry Peckumn said he would like to know definitively before voting on this permit.

Darrell Hanson asked if it would be possible to make the approval of the permit conditional upon that situation being resolved.

Jeff Vonk said the Commission could ask the Department to do that, and they can issue the permit with that condition and the applicant can either address the condition prior to building or they could challenge the requirement to the next level of appeal.

Lori Glanzman said she does understand the concerns expressed by the residents of Humboldt County but the Goodell's complied with the law and did everything that the Department asked them to do.

*Motion was made by Darrell Hanson to amend Commissioner Priebe's motion to make the approval of the permit conditional on the determination that all permitted ag drainage wells have met all applicable State requirements. Gary Priebe accepted it as a friendly amendment to his motion. The roll call vote went as follows: Jerry Peckumn Aye; Lisa Davis Cook Nay; Kelly Tobin Nay; Lori Glanzman Aye; Kathryn Murphy Aye; Gary Priebe Aye; Darrell Hanson - Aye*

**PERMIT APPROVED**

**GENERAL DISCUSSION**

Kathryn Murphy said it is mandatory that the Commission have specific procedures for these types of hearings.

Darrell Hanson said the Commission originally allowed each party only one speaker and there was no public comment period.

Kathryn Murphy said while she believes that public input is very important, there is a case for the fact that the county speaker represents their residents. She said it is also important to have some time constraints for the presentations.

Lengthy discussion followed.

Darrell Hanson suggested that each side be allowed ½ hour to present their case, with the time being suspended if the Commission interrupts to ask questions.

Mike Murphy said that each side should present their argument in their written appeal so that the Commission is able to review it prior to the hearing.

Jeff Vonk agreed and said if the Commissioners read their packets, they know what the issues are and the presenters should then be able to emphasize the important issues and answer questions from the Commissioners.

Wayne Gieselman said the department didn't know anything about the drainage well issue until it was brought up at this meeting so there was no way for the Department to have looked up the information on the wells or verify that it had been checked.

Jeff Vonk said he believes the Department has an obligation to look at these sites. One of the things that the Department is attempting to do, by moving the permitting process out into the field offices is to get people out on the site and looking not only at the construction site but the manure application fields as well.

Mike Murphy said the purpose of the county comment period is for them to bring these facts to the Department before the proposed permit is issued.

Jeff Vonk said the County Board of Supervisors are probably in no better shape than the Department in having staff available to know where everything is.

Darrell Hanson said he really gets uncomfortable when second hand information is brought up at the spur of the moment. He asked if there was anyway to limit the presentation to the things that are already in the record.

Lisa Davis Cook said she had no problem limiting the time each party has to present their case as long as everyone knows in advance and can prepare for it.

Kathryn Murphy asked if the Commission wanted to hold their questions until the end of the presentation or to ask them immediately and allow the presenters the extra time to compensate.

Darrell Hanson said it would save time if they held their questions until after the presentation.

Gary Priebe said the time for questions is at the time when it is pertinent to what is being said.

**ADJOURNMENT**

With no further business to come before the Environmental Protection Commission, Chairperson Murphy adjourned the meeting at 3:30 p.m., Monday, December 3, 2002.

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Jeffrey R. Vonk, Director

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Kathryn Murphy, Chair

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Rita Venner, Secretary

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